

SHB 2660 - S AMD 798

By Senators Haugen, McCaslin, Kline

ADOPTED 03/05/2004

1 Strike everything after the enacting clause and insert the
2 following:

3 "Sec. 1. RCW 10.05.140 and 2003 c 220 s 2 are each amended to read
4 as follows:

5 As a condition of granting a deferred prosecution petition, the
6 court shall order that the petitioner shall not operate a motor vehicle
7 upon the public highways without a valid operator's license and proof
8 of liability insurance. The amount of liability insurance shall be
9 established by the court at not less than that established by RCW
10 46.29.490. As a condition of granting a deferred prosecution petition
11 on any alcohol-dependency based case, the court shall also order the
12 installation of an ignition interlock ((~~or other device~~)) under RCW
13 46.20.720 ((~~for a petitioner who has previously been convicted of a~~
14 ~~violation of RCW 46.61.502 or 46.61.504 or an equivalent local~~
15 ~~ordinance or a petitioner who has been charged with such an offense and~~
16 ~~had an alcohol concentration of at least .15, or by reason of the~~
17 ~~person's refusal to take a test offered pursuant to RCW 46.20.308 there~~
18 ~~is no test result indicating the person's alcohol concentration. For~~
19 ~~any other petitioner, the court may order the installation of an~~
20 ~~interlock device under RCW 46.20.720(1) as a condition of granting a~~
21 ~~deferred prosecution petition)). The required periods of use of the
22 interlock shall be not less than the periods provided for in RCW
23 46.20.720(2) (a), (b), and (c). As a condition of granting a deferred
24 prosecution petition, the court may order the petitioner to make
25 restitution and to pay costs as defined in RCW 10.01.160. To help
26 ensure continued sobriety and reduce the likelihood of reoffense, the
27 court may order reasonable conditions during the period of the deferred
28 prosecution including, but not limited to, attendance at self-help
29 recovery support groups for alcoholism or drugs, complete abstinence
30 from alcohol and all nonprescribed mind-altering drugs, periodic~~

1 urinalysis or breath analysis, and maintaining law-abiding behavior.
2 The court may terminate the deferred prosecution program upon violation
3 of the deferred prosecution order.

4 **Sec. 2.** RCW 46.20.311 and 2003 c 366 s 2 are each amended to read
5 as follows:

6 (1)(a) The department shall not suspend a driver's license or
7 privilege to drive a motor vehicle on the public highways for a fixed
8 period of more than one year, except as specifically permitted under
9 RCW 46.20.267, 46.20.342, or other provision of law.

10 (b) Except for a suspension under RCW 46.20.267, 46.20.289,
11 46.20.291(5), 46.61.740, or 74.20A.320, whenever the license or driving
12 privilege of any person is suspended by reason of a conviction, a
13 finding that a traffic infraction has been committed, pursuant to
14 chapter 46.29 RCW, or pursuant to RCW 46.20.291 or 46.20.308, the
15 suspension shall remain in effect until the person gives and thereafter
16 maintains proof of financial responsibility for the future as provided
17 in chapter 46.29 RCW.

18 (c) If the suspension is the result of a violation of RCW 46.61.502
19 or 46.61.504, the department shall determine the person's eligibility
20 for licensing based upon the reports provided by the alcoholism agency
21 or probation department designated under RCW 46.61.5056 and shall deny
22 reinstatement until enrollment and participation in an approved program
23 has been established and the person is otherwise qualified. If the
24 suspension is the result of a violation of RCW 46.61.502 or 46.61.504,
25 and the person is required pursuant to RCW 46.20.720 to drive only a
26 motor vehicle equipped with a functioning ignition interlock (~~or other~~
27 ~~biological or technical device~~), the department shall determine the
28 person's eligibility for licensing based upon written verification by
29 a company doing business in the state that it has installed the
30 required device on a vehicle owned (~~and/or~~) or operated by the person
31 seeking reinstatement. If, based upon notification from the interlock
32 provider or otherwise, the department determines that an interlock
33 required under RCW 46.20.720 is no longer installed or functioning as
34 required, the department shall suspend the person's license or
35 privilege to drive. Whenever the license or driving privilege of any
36 person is suspended or revoked as a result of noncompliance with an
37 ignition interlock requirement, the suspension shall remain in effect

1 until the person provides notice issued by a company doing business in
2 the state that a vehicle owned or operated by the person is equipped
3 with a functioning ignition interlock device.

4 (d) Whenever the license or driving privilege of any person is
5 suspended as a result of certification of noncompliance with a child
6 support order under chapter 74.20A RCW or a residential or visitation
7 order, the suspension shall remain in effect until the person provides
8 a release issued by the department of social and health services
9 stating that the person is in compliance with the order.

10 ((b)) (e)(i) The department shall not issue to the person a new,
11 duplicate, or renewal license until the person pays a reissue fee of
12 twenty dollars.

13 (ii) If the suspension is the result of a violation of RCW
14 46.61.502 or 46.61.504, or is the result of administrative action under
15 RCW 46.20.308, the reissue fee shall be one hundred fifty dollars.

16 (2)(a) Any person whose license or privilege to drive a motor
17 vehicle on the public highways has been revoked, unless the revocation
18 was for a cause which has been removed, is not entitled to have the
19 license or privilege renewed or restored until: (i) After the
20 expiration of one year from the date the license or privilege to drive
21 was revoked; (ii) after the expiration of the applicable revocation
22 period provided by RCW 46.20.3101 or 46.61.5055; (iii) after the
23 expiration of two years for persons convicted of vehicular homicide; or
24 (iv) after the expiration of the applicable revocation period provided
25 by RCW 46.20.265.

26 (b)(i) After the expiration of the appropriate period, the person
27 may make application for a new license as provided by law together with
28 a reissue fee in the amount of twenty dollars.

29 (ii) If the revocation is the result of a violation of RCW
30 46.20.308, 46.61.502, or 46.61.504, the reissue fee shall be one
31 hundred fifty dollars. If the revocation is the result of a violation
32 of RCW 46.61.502 or 46.61.504, the department shall determine the
33 person's eligibility for licensing based upon the reports provided by
34 the alcoholism agency or probation department designated under RCW
35 46.61.5056 and shall deny reissuance of a license, permit, or privilege
36 to drive until enrollment and participation in an approved program has
37 been established and the person is otherwise qualified. If the
38 revocation is the result of a violation of RCW 46.61.502 or 46.61.504,
39 and the person is required pursuant to RCW 46.20.720 to drive only a

1 motor vehicle equipped with a functioning ignition interlock or other
2 biological or technical device, the department shall determine the
3 person's eligibility for licensing based upon written verification by
4 a company doing business in the state that it has installed the
5 required device on a vehicle owned ((and/or)) or operated by the person
6 applying for a new license. If, following issuance of a new license,
7 the department determines, based upon notification from the interlock
8 provider or otherwise, that an interlock required under RCW 46.20.720
9 is no longer functioning, the department shall suspend the person's
10 license or privilege to drive until the department has received written
11 verification from an interlock provider that a functioning interlock is
12 installed.

13 (c) Except for a revocation under RCW 46.20.265, the department
14 shall not then issue a new license unless it is satisfied after
15 investigation of the driving ability of the person that it will be safe
16 to grant the privilege of driving a motor vehicle on the public
17 highways, and until the person gives and thereafter maintains proof of
18 financial responsibility for the future as provided in chapter 46.29
19 RCW. For a revocation under RCW 46.20.265, the department shall not
20 issue a new license unless it is satisfied after investigation of the
21 driving ability of the person that it will be safe to grant that person
22 the privilege of driving a motor vehicle on the public highways.

23 (3)(a) Whenever the driver's license of any person is suspended
24 pursuant to Article IV of the nonresident violators compact or RCW
25 46.23.020 or 46.20.289 or 46.20.291(5), the department shall not issue
26 to the person any new or renewal license until the person pays a
27 reissue fee of twenty dollars.

28 (b) If the suspension is the result of a violation of the laws of
29 this or any other state, province, or other jurisdiction involving (i)
30 the operation or physical control of a motor vehicle upon the public
31 highways while under the influence of intoxicating liquor or drugs, or
32 (ii) the refusal to submit to a chemical test of the driver's blood
33 alcohol content, the reissue fee shall be one hundred fifty dollars.

34 **Sec. 3.** RCW 46.20.3101 and 1998 c 213 s 2, 1998 c 209 s 2, and
35 1998 c 207 s 8 are each reenacted and amended to read as follows:

36 Pursuant to RCW 46.20.308, the department shall suspend, revoke, or
37 deny the arrested person's license, permit, or privilege to drive as
38 follows:

1 (1) In the case of a person who has refused a test or tests:

2 (a) For a first refusal within seven years, where there has not
3 been a previous incident within seven years that resulted in
4 administrative action under this section, revocation or denial for one
5 year;

6 (b) For a second or subsequent refusal within seven years, or for
7 a first refusal where there has been one or more previous incidents
8 within seven years that have resulted in administrative action under
9 this section, revocation or denial for two years or until the person
10 reaches age twenty-one, whichever is longer. (~~(A revocation imposed
11 under this subsection (1)(b) shall run consecutively to the period of
12 any suspension, revocation, or denial imposed pursuant to a criminal
13 conviction arising out of the same incident.)~~)

14 (2) In the case of an incident where a person has submitted to or
15 been administered a test or tests indicating that the alcohol
16 concentration of the person's breath or blood was 0.08 or more:

17 (a) For a first incident within seven years, where there has not
18 been a previous incident within seven years that resulted in
19 administrative action under this section, suspension for ninety days;

20 (b) For a second or subsequent incident within seven years,
21 revocation or denial for two years.

22 (3) In the case of an incident where a person under age twenty-one
23 has submitted to or been administered a test or tests indicating that
24 the alcohol concentration of the person's breath or blood was in
25 violation of RCW 46.61.502, 46.61.503, or 46.61.504:

26 (a) For a first incident within seven years, suspension or denial
27 for ninety days;

28 (b) For a second or subsequent incident within seven years,
29 revocation or denial for one year or until the person reaches age
30 twenty-one, whichever is longer.

31 (4) The department shall grant credit on a day-for-day basis for
32 any portion of a suspension, revocation, or denial already served under
33 this section for a suspension, revocation, or denial imposed under RCW
34 46.61.5055 arising out of the same incident.

35 **Sec. 4.** RCW 46.20.342 and 2001 c 325 s 3 are each amended to read
36 as follows:

37 (1) It is unlawful for any person to drive a motor vehicle in this
38 state while that person is in a suspended or revoked status or when his

1 or her privilege to drive is suspended or revoked in this or any other
2 state. Any person who has a valid Washington driver's license is not
3 guilty of a violation of this section.

4 (a) A person found to be an habitual offender under chapter 46.65
5 RCW, who violates this section while an order of revocation issued
6 under chapter 46.65 RCW prohibiting such operation is in effect, is
7 guilty of driving while license suspended or revoked in the first
8 degree, a gross misdemeanor. Upon the first such conviction, the
9 person shall be punished by imprisonment for not less than ten days.
10 Upon the second conviction, the person shall be punished by
11 imprisonment for not less than ninety days. Upon the third or
12 subsequent conviction, the person shall be punished by imprisonment for
13 not less than one hundred eighty days. If the person is also convicted
14 of the offense defined in RCW 46.61.502 or 46.61.504, when both
15 convictions arise from the same event, the minimum sentence of
16 confinement shall be not less than ninety days. The minimum sentence
17 of confinement required shall not be suspended or deferred. A
18 conviction under this subsection does not prevent a person from
19 petitioning for reinstatement as provided by RCW 46.65.080.

20 (b) A person who violates this section while an order of suspension
21 or revocation prohibiting such operation is in effect and while the
22 person is not eligible to reinstate his or her driver's license or
23 driving privilege, other than for a suspension for the reasons
24 described in (c) of this subsection, is guilty of driving while license
25 suspended or revoked in the second degree, a gross misdemeanor. This
26 subsection applies when a person's driver's license or driving
27 privilege has been suspended or revoked by reason of:

28 (i) A conviction of a felony in the commission of which a motor
29 vehicle was used;

30 (ii) A previous conviction under this section;

31 (iii) A notice received by the department from a court or diversion
32 unit as provided by RCW 46.20.265, relating to a minor who has
33 committed, or who has entered a diversion unit concerning an offense
34 relating to alcohol, legend drugs, controlled substances, or imitation
35 controlled substances;

36 (iv) A conviction of RCW 46.20.410, relating to the violation of
37 restrictions of an occupational or a temporary restricted driver's
38 license;

1 (v) A conviction of RCW 46.20.345, relating to the operation of a
2 motor vehicle with a suspended or revoked license;

3 (vi) A conviction of RCW 46.52.020, relating to duty in case of
4 injury to or death of a person or damage to an attended vehicle;

5 (vii) A conviction of RCW 46.61.024, relating to attempting to
6 elude pursuing police vehicles;

7 (viii) A conviction of RCW 46.61.500, relating to reckless driving;

8 (ix) A conviction of RCW 46.61.502 or 46.61.504, relating to a
9 person under the influence of intoxicating liquor or drugs;

10 (x) A conviction of RCW 46.61.520, relating to vehicular homicide;

11 (xi) A conviction of RCW 46.61.522, relating to vehicular assault;

12 (xii) A conviction of RCW 46.61.527(4), relating to reckless
13 endangerment of roadway workers;

14 (xiii) A conviction of RCW 46.61.530, relating to racing of
15 vehicles on highways;

16 (xiv) A conviction of RCW 46.61.685, relating to leaving children
17 in an unattended vehicle with motor running;

18 (xv) A conviction of RCW 46.61.740, relating to theft of motor
19 vehicle fuel;

20 (xvi) A conviction of RCW 46.64.048, relating to attempting,
21 aiding, abetting, coercing, and committing crimes;

22 (xvii) An administrative action taken by the department under
23 chapter 46.20 RCW; or

24 (xviii) A conviction of a local law, ordinance, regulation, or
25 resolution of a political subdivision of this state, the federal
26 government, or any other state, of an offense substantially similar to
27 a violation included in this subsection.

28 (c) A person who violates this section when his or her driver's
29 license or driving privilege is, at the time of the violation,
30 suspended or revoked solely because (i) the person must furnish proof
31 of satisfactory progress in a required alcoholism or drug treatment
32 program, (ii) the person must furnish proof of financial responsibility
33 for the future as provided by chapter 46.29 RCW, (iii) the person has
34 failed to comply with the provisions of chapter 46.29 RCW relating to
35 uninsured accidents, (iv) the person has failed to respond to a notice
36 of traffic infraction, failed to appear at a requested hearing,
37 violated a written promise to appear in court, or has failed to comply
38 with the terms of a notice of traffic infraction or citation, as
39 provided in RCW 46.20.289, (v) the person has committed an offense in

1 another state that, if committed in this state, would not be grounds
2 for the suspension or revocation of the person's driver's license, (vi)
3 the person has been suspended or revoked by reason of one or more of
4 the items listed in (b) of this subsection, but was eligible to
5 reinstate his or her driver's license or driving privilege at the time
6 of the violation, or (vii) the person has received traffic citations or
7 notices of traffic infraction that have resulted in a suspension under
8 RCW 46.20.267 relating to intermediate drivers' licenses, or any
9 combination of (i) through (vii), is guilty of driving while license
10 suspended or revoked in the third degree, a misdemeanor.

11 (2) Upon receiving a record of conviction of any person or upon
12 receiving an order by any juvenile court or any duly authorized court
13 officer of the conviction of any juvenile under this section, the
14 department shall:

15 (a) For a conviction of driving while suspended or revoked in the
16 first degree, as provided by subsection (1)(a) of this section, extend
17 the period of administrative revocation imposed under chapter 46.65 RCW
18 for an additional period of one year from and after the date the person
19 would otherwise have been entitled to apply for a new license or have
20 his or her driving privilege restored; or

21 (b) For a conviction of driving while suspended or revoked in the
22 second degree, as provided by subsection (1)(b) of this section, not
23 issue a new license or restore the driving privilege for an additional
24 period of one year from and after the date the person would otherwise
25 have been entitled to apply for a new license or have his or her
26 driving privilege restored; or

27 (c) Not extend the period of suspension or revocation if the
28 conviction was under subsection (1)(c) of this section. If the
29 conviction was under subsection (1)(a) or (b) of this section and the
30 court recommends against the extension and the convicted person has
31 obtained a valid driver's license, the period of suspension or
32 revocation shall not be extended.

33 NEW SECTION. **Sec. 5.** A new section is added to chapter 46.20 RCW
34 to read as follows:

35 No person may file an application for a temporary restricted
36 driver's license as provided in RCW 46.20.391 unless he or she first
37 pays to the director or other person authorized to accept applications
38 and fees for driver's licenses a fee of one hundred dollars. The

1 applicant shall receive upon payment an official receipt for the
2 payment of such fee. All such fees shall be forwarded to the director
3 who shall transmit such fees to the state treasurer in the same manner
4 as other driver's license fees.

5 **Sec. 6.** RCW 46.20.391 and 1999 c 274 s 4 and 1999 c 272 s 1 are
6 each reenacted and amended to read as follows:

7 (1)(a) Any person licensed under this chapter who is convicted of
8 an offense relating to motor vehicles for which suspension or
9 revocation of the driver's license is mandatory, other than vehicular
10 homicide or vehicular assault, or who (~~has had his or her license~~
11 ~~suspended under RCW 46.20.3101 (2)(a) or (3)(a))~~ is authorized under
12 RCW 46.20.3101(4), may submit to the department an application for (~~an~~
13 ~~occupational~~) a temporary restricted driver's license. The
14 department, upon receipt of the prescribed fee and upon determining
15 that the petitioner is (~~engaged in an occupation or trade that makes~~
16 ~~it essential that the petitioner operate a motor vehicle~~) eligible to
17 receive the license, may issue (~~an occupational~~) a temporary
18 restricted driver's license and may set definite restrictions as
19 provided in RCW 46.20.394. No person may petition for, and the
20 department shall not issue, (~~an occupational~~) a temporary restricted
21 driver's license that is effective during the first thirty days of any
22 suspension or revocation imposed (~~either~~) for a violation of RCW
23 46.61.502 or 46.61.504 or (~~under RCW 46.20.3101 (2)(a) or (3)(a), or~~
24 ~~for both a violation of RCW 46.61.502 or 46.61.504 and under RCW~~
25 ~~46.20.3101 (2)(a) or (3)(a) where the action arises from the same~~
26 ~~incident. A person aggrieved by the decision of the department on the~~
27 ~~application for an occupational driver's license may request a hearing~~
28 ~~as provided by rule of the department~~), for a suspension, revocation,
29 or denial imposed under RCW 46.20.3101, during the required minimum
30 portion of the periods of suspension, revocation, or denial established
31 under (c) of this subsection.

32 (b) An applicant under this subsection whose driver's license is
33 suspended or revoked for an alcohol-related offense shall provide proof
34 to the satisfaction of the department that a functioning ignition
35 interlock device has been installed on a vehicle owned or operated by
36 the person.

37 (i) The department shall require the person to maintain such a

1 device on a vehicle owned or operated by the person and shall restrict
2 the person to operating only vehicles equipped with such a device, for
3 the remainder of the period of suspension, revocation, or denial.

4 (ii) Subject to any periodic renewal requirements established by
5 the department pursuant to this section and subject to any applicable
6 compliance requirements under this chapter or other law, a temporary
7 restricted driver's license granted after a suspension or revocation
8 under RCW 46.61.5055 or 46.20.3101 extends through the remaining
9 portion of any concurrent or consecutive suspension or revocation that
10 may be imposed as the result of administrative action and criminal
11 conviction arising out of the same incident.

12 (iii) The time period during which the person is licensed under
13 this section shall apply on a day-for-day basis toward satisfying the
14 period of time the ignition interlock device restriction is required
15 under RCW 46.20.720 (1) and (2) (a), (b), and (c).

16 (c) The department shall provide by rule the minimum portions of
17 the periods of suspension, revocation, or denial set forth in RCW
18 46.20.3101 after which a person may apply for a temporary restricted
19 driver's license under this section. In establishing the minimum
20 portions of the periods of suspension, revocation, or denial, the
21 department shall consider the requirements of federal law regarding
22 state eligibility for grants or other funding, and shall establish such
23 periods so as to ensure that the state will maintain its eligibility,
24 or establish eligibility, to obtain incentive grants or any other
25 federal funding.

26 (2)(a) A person licensed under this chapter whose driver's license
27 is suspended administratively due to failure to appear or pay a traffic
28 ticket under RCW 46.20.289; a violation of the financial responsibility
29 laws under chapter 46.29 RCW; or for multiple violations within a
30 specified period of time under RCW 46.20.291, may apply to the
31 department for an occupational driver's license (~~if the applicant~~
32 ~~demonstrates to the satisfaction of the department that one of the~~
33 ~~following additional conditions are met:~~

34 ~~(i) The applicant is in an apprenticeship program or an on-the-job~~
35 ~~training program for which a driver's license is required;~~

36 ~~(ii) The applicant presents evidence that he or she has applied for~~
37 ~~a position in an apprenticeship or on-the-job training program and the~~
38 ~~program has certified that a driver's license is required to begin the~~

1 ~~program, provided that a license granted under this provision shall be~~
2 ~~in effect no longer than fourteen days;~~

3 ~~(iii) The applicant is in a program that assists persons who are~~
4 ~~enrolled in a WorkFirst program pursuant to chapter 74.08A RCW to~~
5 ~~become gainfully employed and the program requires a driver's license;~~
6 ~~or~~

7 ~~(iv) The applicant is undergoing substance abuse treatment or is~~
8 ~~participating in meetings of a twelve-step group such as alcoholics~~
9 ~~anonymous)).~~

10 (b) If the suspension is for failure to respond, pay, or comply
11 with a notice of traffic infraction or conviction, the applicant must
12 enter into a payment plan with the court.

13 (c) An occupational driver's license issued to an applicant
14 described in (a) of this subsection shall be valid for the period of
15 the suspension or revocation (~~but not more than two years~~)).

16 ~~((d) Upon receipt of evidence that a holder of an occupational~~
17 ~~driver's license granted under this subsection is no longer enrolled in~~
18 ~~an apprenticeship or on the job training program, the director shall~~
19 ~~give written notice by first class mail to the driver that the~~
20 ~~occupational driver's license shall be canceled. The effective date of~~
21 ~~cancellation shall be fifteen days from the date of mailing the notice.~~
22 ~~If at any time before the cancellation goes into effect the driver~~
23 ~~submits evidence of continued enrollment in the program, the~~
24 ~~cancellation shall be stayed. If the cancellation becomes effective,~~
25 ~~the driver may obtain, at no additional charge, a new occupational~~
26 ~~driver's license upon submittal of evidence of enrollment in another~~
27 ~~program that meets the criteria set forth in this subsection.~~

28 ~~(e) The department shall not issue an occupational driver's license~~
29 ~~under (a)(iv) of this subsection if the applicant is able to receive~~
30 ~~transit services sufficient to allow for the applicant's participation~~
31 ~~in the programs referenced under (a)(iv) of this subsection.))~~

32 (3) An applicant for an occupational or temporary restricted
33 driver's license who qualifies under subsection (1) or (2) of this
34 section is eligible to receive such license only if:

35 (a) ~~((Within one year immediately preceding the date of the offense~~
36 ~~that gave rise to the present conviction, the applicant has not~~
37 ~~committed any offense relating to motor vehicles for which suspension~~
38 ~~or revocation of a driver's license is mandatory; and~~

1 ~~(b))~~ Within seven years immediately preceding the date of the
2 offense that gave rise to the present conviction or incident, the
3 applicant has not committed ~~((any of the following offenses: (i)~~
4 ~~Driving or being in actual physical control of a motor vehicle while~~
5 ~~under the influence of intoxicating liquor; (ii))~~ vehicular homicide
6 under RCW 46.61.520~~((+))~~ or ~~((+iii))~~ vehicular assault under RCW
7 46.61.522; and

8 ~~((+e))~~ (b) The applicant demonstrates that it is necessary for him
9 or her to operate a motor vehicle because he or she:

10 (i) Is engaged in an occupation or trade that makes it essential
11 that he or she operate a motor vehicle(, except as allowed under
12 subsection (2)(a) of this section));

13 (ii) Is undergoing continuing health care or providing continuing
14 care to another who is dependent upon the applicant;

15 (iii) Is enrolled in an educational institution and pursuing a
16 course of study leading to a diploma, degree, or other certification of
17 successful educational completion;

18 (iv) Is undergoing substance abuse treatment or is participating in
19 meetings of a twelve-step group such as Alcoholics Anonymous that
20 requires the petitioner to drive to or from the treatment or meetings;

21 (v) Is fulfilling court-ordered community service responsibilities;

22 (vi) Is in a program that assists persons who are enrolled in a
23 WorkFirst program pursuant to chapter 74.08A RCW to become gainfully
24 employed and the program requires a driver's license;

25 (vii) Is in an apprenticeship, on-the-job training, or welfare-to-
26 work program; or

27 (viii) Presents evidence that he or she has applied for a position
28 in an apprenticeship or on-the-job training program for which a
29 driver's license is required to begin the program, provided that a
30 license granted under this provision shall be in effect for no longer
31 than fourteen days; and

32 ~~((+d))~~ (c) The applicant files satisfactory proof of financial
33 responsibility under chapter 46.29 RCW; and

34 (d) Upon receipt of evidence that a holder of an occupational
35 driver's license granted under this subsection is no longer enrolled in
36 an apprenticeship or on-the-job training program, the director shall
37 give written notice by first class mail to the driver that the
38 occupational driver's license shall be canceled. The effective date of
39 cancellation shall be fifteen days from the date of mailing the notice.

1 If at any time before the cancellation goes into effect the driver
2 submits evidence of continued enrollment in the program, the
3 cancellation shall be stayed. If the cancellation becomes effective,
4 the driver may obtain, at no additional charge, a new occupational
5 driver's license upon submittal of evidence of enrollment in another
6 program that meets the criteria set forth in this subsection; and

7 (e) The department shall not issue an occupational driver's license
8 under (b)(iv) of this subsection if the applicant is able to receive
9 transit services sufficient to allow for the applicant's participation
10 in the programs referenced under (b)(iv) of this subsection.

11 (4) A person aggrieved by the decision of the department on the
12 application for an occupational or temporary restricted driver's
13 license may request a hearing as provided by rule of the department.

14 (5) The director shall cancel an occupational or temporary
15 restricted driver's license upon receipt of notice that the holder
16 thereof has been convicted of operating a motor vehicle in violation of
17 its restrictions, or of a separate offense that under chapter 46.20 RCW
18 would warrant suspension or revocation of a regular driver's license.
19 The cancellation is effective as of the date of the conviction, and
20 continues with the same force and effect as any suspension or
21 revocation under this title.

22 **Sec. 7.** RCW 46.20.394 and 1999 c 272 s 2 are each amended to read
23 as follows:

24 In issuing an occupational or a temporary restricted driver's
25 license under RCW 46.20.391, the department shall describe the type of
26 ~~((occupation permitted))~~ qualifying circumstances for the license and
27 shall set forth in detail the specific hours of the day during which
28 the person may drive to and from his ~~((place of work))~~ or her
29 residence, which may not exceed twelve hours in any one day; the days
30 of the week during which the license may be used; and the general
31 routes over which the person may travel. In issuing an occupational or
32 temporary restricted driver's license that meets the qualifying
33 circumstance under RCW 46.20.391 ~~((2)(a)(iv))~~ (3)(b)(iv), the
34 department shall set forth in detail the specific hours during which
35 the person may drive to and from substance abuse treatment or meetings
36 of a twelve-step group such as alcoholics anonymous, the days of the
37 week during which the license may be used, and the general routes over
38 which the person may travel. These restrictions shall be prepared in

1 written form by the department, which document shall be carried in the
2 vehicle at all times and presented to a law enforcement officer under
3 the same terms as the occupational or temporary restricted driver's
4 license. Any violation of the restrictions constitutes a violation of
5 RCW 46.20.342 and subjects the person to all procedures and penalties
6 therefor.

7 **Sec. 8.** RCW 46.20.400 and 1967 c 32 s 33 are each amended to read
8 as follows:

9 If an occupational or a temporary restricted driver's license is
10 issued and is not revoked during the period for which issued the
11 licensee may obtain a new driver's license at the end of such period,
12 but no new driver's ((~~permit shall~~)) license may be issued to such
13 person until he or she surrenders his or her occupational or temporary
14 restricted driver's license and his or her copy of the order, and the
15 director is satisfied that ((~~he~~)) the person complies with all other
16 provisions of law relative to the issuance of a driver's license.

17 **Sec. 9.** RCW 46.20.410 and 1967 c 32 s 34 are each amended to read
18 as follows:

19 Any person convicted for violation of any restriction of an
20 occupational or a temporary restricted driver's license shall in
21 addition to the immediate revocation of such license and any other
22 penalties provided by law be fined not less than fifty nor more than
23 two hundred dollars or imprisoned for not more than six months or both
24 such fine and imprisonment.

25 **Sec. 10.** RCW 46.20.720 and 2003 c 366 s 1 are each amended to read
26 as follows:

27 (1) The court may order that after a period of suspension,
28 revocation, or denial of driving privileges, and for up to as long as
29 the court has jurisdiction, any person convicted of any offense
30 involving the use, consumption, or possession of alcohol while
31 operating a motor vehicle may drive only a motor vehicle equipped with
32 a functioning ignition interlock ((~~or other biological or technical~~
33 ~~device~~)). The court shall establish a specific calibration setting at
34 which the interlock will prevent the vehicle from being started. The
35 court shall also establish the period of time for which interlock use
36 will be required.

1 (2)((~~a~~)) The department shall require that, after any applicable
2 period of suspension, revocation, or denial of driving privileges, a
3 person may drive only a motor vehicle equipped with a functioning
4 ignition interlock (~~(or other biological or technical)~~) device if the
5 person is convicted of ((a)) an alcohol-related violation of RCW
6 46.61.502 or 46.61.504 or an equivalent local ordinance (~~and it is:~~
7 ~~(i) The person's first conviction or a deferred prosecution under~~
8 ~~chapter 10.05 RCW and his or her alcohol concentration was at least~~
9 ~~0.15, or by reason of the person's refusal to take a test offered~~
10 ~~pursuant to RCW 46.20.308 there is no test result indicating the~~
11 ~~person's alcohol concentration;~~
12 ~~(ii) The person's second or subsequent conviction; or~~
13 ~~(iii) The person's first conviction and the person has a previous~~
14 ~~deferred prosecution under chapter 10.05 RCW or it is a deferred~~
15 ~~prosecution under chapter 10.05 RCW and the person has a previous~~
16 ~~conviction)).~~
17 ((~~b~~)) The department may waive the requirement for the use of
18 such a device if it concludes that such devices are not reasonably
19 available in the local area. (~~Nothing in this section may be~~
20 ~~interpreted as entitling a person to more than one deferred~~
21 ~~prosecution.~~
22 ~~(3) In the case of a person under subsection (1) of this section,~~
23 ~~the court shall establish a specific calibration setting at which the~~
24 ~~ignition interlock or other biological or technical device will prevent~~
25 ~~the motor vehicle from being started and the period of time that the~~
26 ~~person shall be subject to the restriction. In the case of a person~~
27 ~~under subsection (2) of this section,)~~ The device is not necessary on
28 vehicles owned by a person's employer and driven as a requirement of
29 employment during working hours.
30 The ignition interlock ((~~or other biological or technical~~)) device
31 shall be calibrated to prevent the motor vehicle from being started
32 when the breath sample provided has an alcohol concentration of 0.025
33 or more(~~, and~~). The period of time of the restriction will be as
34 follows:
35 (a) For a person (~~((i) who is subject to RCW 46.61.5055 (1)(b),~~
36 ~~(2), or (3), or who is subject to a deferred prosecution program under~~
37 ~~chapter 10.05 RCW; and (ii))~~) who has not previously been restricted
38 under this section, a period of one year;

1 (b) For a person who has previously been restricted under (a) of
2 this subsection, a period of five years;

3 (c) For a person who has previously been restricted under (b) of
4 this subsection, a period of ten years.

5 (~~For purposes of this section, "convicted" means being found~~
6 ~~guilty of an offense or being placed on a deferred prosecution program~~
7 ~~under chapter 10.05 RCW.~~)

8 **Sec. 11.** RCW 46.20.740 and 2001 c 55 s 1 are each amended to read
9 as follows:

10 (1) The department shall attach or imprint a notation on the
11 driving record of any person restricted under RCW 46.20.720 stating
12 that the person may operate only a motor vehicle equipped with ((an))
13 a functioning ignition interlock ((or other biological or technical))
14 device. The department shall determine the person's eligibility for
15 licensing based upon written verification by a company doing business
16 in the state that it has installed the required device on a vehicle
17 owned or operated by the person seeking reinstatement. If, based upon
18 notification from the interlock provider or otherwise, the department
19 determines that an ignition interlock required under this section is no
20 longer installed or functioning as required, the department shall
21 suspend the person's license or privilege to drive. Whenever the
22 license or driving privilege of any person is suspended or revoked as
23 a result of noncompliance with an ignition interlock requirement, the
24 suspension shall remain in effect until the person provides notice
25 issued by a company doing business in the state that a vehicle owned or
26 operated by the person is equipped with a functioning ignition
27 interlock device.

28 (2) It is a misdemeanor for a person with such a notation on his or
29 her driving record to operate a motor vehicle that is not so equipped.

30 **Sec. 12.** RCW 46.61.5055 and 2003 c 103 s 1 are each amended to
31 read as follows:

32 (1) A person who is convicted of a violation of RCW 46.61.502 or
33 46.61.504 and who has no prior offense within seven years shall be
34 punished as follows:

35 (a) In the case of a person whose alcohol concentration was less
36 than 0.15, or for whom for reasons other than the person's refusal to

1 take a test offered pursuant to RCW 46.20.308 there is no test result
2 indicating the person's alcohol concentration:

3 (i) By imprisonment for not less than one day nor more than one
4 year. Twenty-four consecutive hours of the imprisonment may not be
5 suspended or deferred unless the court finds that the imposition of
6 this mandatory minimum sentence would impose a substantial risk to the
7 offender's physical or mental well-being. Whenever the mandatory
8 minimum sentence is suspended or deferred, the court shall state in
9 writing the reason for granting the suspension or deferral and the
10 facts upon which the suspension or deferral is based. In lieu of the
11 mandatory minimum term of imprisonment required under this subsection
12 (1)(a)(i), the court may order not less than fifteen days of electronic
13 home monitoring. The offender shall pay the cost of electronic home
14 monitoring. The county or municipality in which the penalty is being
15 imposed shall determine the cost. The court may also require the
16 offender's electronic home monitoring device to include an alcohol
17 detection breathalyzer, and the court may restrict the amount of
18 alcohol the offender may consume during the time the offender is on
19 electronic home monitoring; and

20 (ii) By a fine of not less than three hundred fifty dollars nor
21 more than five thousand dollars. Three hundred fifty dollars of the
22 fine may not be suspended or deferred unless the court finds the
23 offender to be indigent; or

24 (b) In the case of a person whose alcohol concentration was at
25 least 0.15, or for whom by reason of the person's refusal to take a
26 test offered pursuant to RCW 46.20.308 there is no test result
27 indicating the person's alcohol concentration:

28 (i) By imprisonment for not less than two days nor more than one
29 year. Two consecutive days of the imprisonment may not be suspended or
30 deferred unless the court finds that the imposition of this mandatory
31 minimum sentence would impose a substantial risk to the offender's
32 physical or mental well-being. Whenever the mandatory minimum sentence
33 is suspended or deferred, the court shall state in writing the reason
34 for granting the suspension or deferral and the facts upon which the
35 suspension or deferral is based. In lieu of the mandatory minimum term
36 of imprisonment required under this subsection (1)(b)(i), the court may
37 order not less than thirty days of electronic home monitoring. The
38 offender shall pay the cost of electronic home monitoring. The county
39 or municipality in which the penalty is being imposed shall determine

1 the cost. The court may also require the offender's electronic home
2 monitoring device to include an alcohol detection breathalyzer, and the
3 court may restrict the amount of alcohol the offender may consume
4 during the time the offender is on electronic home monitoring; and

5 (ii) By a fine of not less than five hundred dollars nor more than
6 five thousand dollars. Five hundred dollars of the fine may not be
7 suspended or deferred unless the court finds the offender to be
8 indigent; (~~and~~

9 ~~(iii) By a court ordered restriction under RCW 46.20.720~~)).

10 (2) A person who is convicted of a violation of RCW 46.61.502 or
11 46.61.504 and who has one prior offense within seven years shall be
12 punished as follows:

13 (a) In the case of a person whose alcohol concentration was less
14 than 0.15, or for whom for reasons other than the person's refusal to
15 take a test offered pursuant to RCW 46.20.308 there is no test result
16 indicating the person's alcohol concentration:

17 (i) By imprisonment for not less than thirty days nor more than one
18 year and sixty days of electronic home monitoring. The offender shall
19 pay for the cost of the electronic monitoring. The county or
20 municipality where the penalty is being imposed shall determine the
21 cost. The court may also require the offender's electronic home
22 monitoring device include an alcohol detection breathalyzer, and may
23 restrict the amount of alcohol the offender may consume during the time
24 the offender is on electronic home monitoring. Thirty days of
25 imprisonment and sixty days of electronic home monitoring may not be
26 suspended or deferred unless the court finds that the imposition of
27 this mandatory minimum sentence would impose a substantial risk to the
28 offender's physical or mental well-being. Whenever the mandatory
29 minimum sentence is suspended or deferred, the court shall state in
30 writing the reason for granting the suspension or deferral and the
31 facts upon which the suspension or deferral is based; and

32 (ii) By a fine of not less than five hundred dollars nor more than
33 five thousand dollars. Five hundred dollars of the fine may not be
34 suspended or deferred unless the court finds the offender to be
35 indigent; (~~and~~

36 ~~(iii) By a court ordered restriction under RCW 46.20.720~~); or

37 (b) In the case of a person whose alcohol concentration was at
38 least 0.15, or for whom by reason of the person's refusal to take a

1 test offered pursuant to RCW 46.20.308 there is no test result
2 indicating the person's alcohol concentration:

3 (i) By imprisonment for not less than forty-five days nor more than
4 one year and ninety days of electronic home monitoring. The offender
5 shall pay for the cost of the electronic monitoring. The county or
6 municipality where the penalty is being imposed shall determine the
7 cost. The court may also require the offender's electronic home
8 monitoring device include an alcohol detection breathalyzer, and may
9 restrict the amount of alcohol the offender may consume during the time
10 the offender is on electronic home monitoring. Forty-five days of
11 imprisonment and ninety days of electronic home monitoring may not be
12 suspended or deferred unless the court finds that the imposition of
13 this mandatory minimum sentence would impose a substantial risk to the
14 offender's physical or mental well-being. Whenever the mandatory
15 minimum sentence is suspended or deferred, the court shall state in
16 writing the reason for granting the suspension or deferral and the
17 facts upon which the suspension or deferral is based; and

18 (ii) By a fine of not less than seven hundred fifty dollars nor
19 more than five thousand dollars. Seven hundred fifty dollars of the
20 fine may not be suspended or deferred unless the court finds the
21 offender to be indigent((+and

22 ~~(iii) By a court ordered restriction under RCW 46.20.720)).~~

23 (3) A person who is convicted of a violation of RCW 46.61.502 or
24 46.61.504 and who has two or more prior offenses within seven years
25 shall be punished as follows:

26 (a) In the case of a person whose alcohol concentration was less
27 than 0.15, or for whom for reasons other than the person's refusal to
28 take a test offered pursuant to RCW 46.20.308 there is no test result
29 indicating the person's alcohol concentration:

30 (i) By imprisonment for not less than ninety days nor more than one
31 year and one hundred twenty days of electronic home monitoring. The
32 offender shall pay for the cost of the electronic monitoring. The
33 county or municipality where the penalty is being imposed shall
34 determine the cost. The court may also require the offender's
35 electronic home monitoring device include an alcohol detection
36 breathalyzer, and may restrict the amount of alcohol the offender may
37 consume during the time the offender is on electronic home monitoring.
38 Ninety days of imprisonment and one hundred twenty days of electronic
39 home monitoring may not be suspended or deferred unless the court finds

1 that the imposition of this mandatory minimum sentence would impose a
2 substantial risk to the offender's physical or mental well-being.
3 Whenever the mandatory minimum sentence is suspended or deferred, the
4 court shall state in writing the reason for granting the suspension or
5 deferral and the facts upon which the suspension or deferral is based;
6 and

7 (ii) By a fine of not less than one thousand dollars nor more than
8 five thousand dollars. One thousand dollars of the fine may not be
9 suspended or deferred unless the court finds the offender to be
10 indigent(~~(; and~~

11 ~~(iii) By a court ordered restriction under RCW 46.20.720)); or~~

12 (b) In the case of a person whose alcohol concentration was at
13 least 0.15, or for whom by reason of the person's refusal to take a
14 test offered pursuant to RCW 46.20.308 there is no test result
15 indicating the person's alcohol concentration:

16 (i) By imprisonment for not less than one hundred twenty days nor
17 more than one year and one hundred fifty days of electronic home
18 monitoring. The offender shall pay for the cost of the electronic
19 monitoring. The county or municipality where the penalty is being
20 imposed shall determine the cost. The court may also require the
21 offender's electronic home monitoring device include an alcohol
22 detection breathalyzer, and may restrict the amount of alcohol the
23 offender may consume during the time the offender is on electronic home
24 monitoring. One hundred twenty days of imprisonment and one hundred
25 fifty days of electronic home monitoring may not be suspended or
26 deferred unless the court finds that the imposition of this mandatory
27 minimum sentence would impose a substantial risk to the offender's
28 physical or mental well-being. Whenever the mandatory minimum sentence
29 is suspended or deferred, the court shall state in writing the reason
30 for granting the suspension or deferral and the facts upon which the
31 suspension or deferral is based; and

32 (ii) By a fine of not less than one thousand five hundred dollars
33 nor more than five thousand dollars. One thousand five hundred dollars
34 of the fine may not be suspended or deferred unless the court finds the
35 offender to be indigent(~~(; and~~

36 ~~(iii) By a court ordered restriction under RCW 46.20.720)).~~

37 (4) If a person who is convicted of a violation of RCW 46.61.502 or
38 46.61.504 committed the offense while a passenger under the age of
39 sixteen was in the vehicle, the court shall:

1 (a) In any case in which the installation and use of an interlock
2 or other device is not mandatory under RCW 46.20.720 or other law,
3 order the use of such a device for not less than sixty days following
4 the restoration of the person's license, permit, or nonresident driving
5 privileges; and

6 (b) In any case in which the installation and use of such a device
7 is otherwise mandatory, order the use of such a device for an
8 additional sixty days.

9 (5) In exercising its discretion in setting penalties within the
10 limits allowed by this section, the court shall particularly consider
11 the following:

12 (a) Whether the person's driving at the time of the offense was
13 responsible for injury or damage to another or another's property; and

14 (b) Whether at the time of the offense the person was driving or in
15 physical control of a vehicle with one or more passengers.

16 (6) An offender punishable under this section is subject to the
17 alcohol assessment and treatment provisions of RCW 46.61.5056.

18 (7) The license, permit, or nonresident privilege of a person
19 convicted of driving or being in physical control of a motor vehicle
20 while under the influence of intoxicating liquor or drugs must:

21 (a) If the person's alcohol concentration was less than 0.15, or if
22 for reasons other than the person's refusal to take a test offered
23 under RCW 46.20.308 there is no test result indicating the person's
24 alcohol concentration:

25 (i) Where there has been no prior offense within seven years, be
26 suspended or denied by the department for ninety days;

27 (ii) Where there has been one prior offense within seven years, be
28 revoked or denied by the department for two years; or

29 (iii) Where there have been two or more prior offenses within seven
30 years, be revoked or denied by the department for three years;

31 (b) If the person's alcohol concentration was at least 0.15(~~(, or~~
32 ~~if by reason of the person's refusal to take a test offered under RCW~~
33 ~~46.20.308 there is no test result indicating the person's alcohol~~
34 ~~concentration))):~~

35 (i) Where there has been no prior offense within seven years, be
36 revoked or denied by the department for one year;

37 (ii) Where there has been one prior offense within seven years, be
38 revoked or denied by the department for nine hundred days; or

1 (iii) Where there have been two or more prior offenses within seven
2 years, be revoked or denied by the department for four years; or

3 (c) If by reason of the person's refusal to take a test offered
4 under RCW 46.20.308, there is no test result indicating the person's
5 alcohol concentration:

6 (i) Where there have been no prior offenses within seven years, be
7 revoked or denied by the department for two years;

8 (ii) Where there has been one prior offense within seven years, be
9 revoked or denied by the department for three years; or

10 (iii) Where there have been two or more previous offenses within
11 seven years, be revoked or denied by the department for four years.

12 The department shall grant credit on a day-for-day basis for any
13 portion of a suspension, revocation, or denial already served under
14 this subsection for a suspension, revocation, or denial imposed under
15 RCW 46.20.3101 arising out of the same incident.

16 For purposes of this subsection (7), the department shall refer to
17 the driver's record maintained under RCW 46.52.120 when determining the
18 existence of prior offenses.

19 (8) After expiration of any period of suspension, revocation, or
20 denial of the offender's license, permit, or privilege to drive
21 required by this section, the department shall place the offender's
22 driving privilege in probationary status pursuant to RCW 46.20.355.

23 (9)(a) In addition to any nonsuspendable and nondeferrable jail
24 sentence required by this section, whenever the court imposes less than
25 one year in jail, the court shall also suspend but shall not defer a
26 period of confinement for a period not exceeding five years. The court
27 shall impose conditions of probation that include: (i) Not driving a
28 motor vehicle within this state without a valid license to drive and
29 proof of financial responsibility for the future; (ii) not driving a
30 motor vehicle within this state while having an alcohol concentration
31 of 0.08 or more within two hours after driving; and (iii) not refusing
32 to submit to a test of his or her breath or blood to determine alcohol
33 concentration upon request of a law enforcement officer who has
34 reasonable grounds to believe the person was driving or was in actual
35 physical control of a motor vehicle within this state while under the
36 influence of intoxicating liquor. The court may impose conditions of
37 probation that include nonrepetition, installation of an ignition
38 interlock ~~((or other biological or technical))~~ device on the
39 probationer's motor vehicle, alcohol or drug treatment, supervised

1 probation, or other conditions that may be appropriate. The sentence
2 may be imposed in whole or in part upon violation of a condition of
3 probation during the suspension period.

4 (b) For each violation of mandatory conditions of probation under
5 (a)(i) ~~((and))~~, (ii), or ~~((a)(i) and))~~ (iii) of this subsection, the
6 court shall order the convicted person to be confined for thirty days,
7 which shall not be suspended or deferred.

8 (c) For each incident involving a violation of a mandatory
9 condition of probation imposed under this subsection, the license,
10 permit, or privilege to drive of the person shall be suspended by the
11 court for thirty days or, if such license, permit, or privilege to
12 drive already is suspended, revoked, or denied at the time the finding
13 of probation violation is made, the suspension, revocation, or denial
14 then in effect shall be extended by thirty days. The court shall
15 notify the department of any suspension, revocation, or denial or any
16 extension of a suspension, revocation, or denial imposed under this
17 subsection.

18 (10) A court may waive the electronic home monitoring requirements
19 of this chapter when:

20 (a) The offender does not have a dwelling, telephone service, or
21 any other necessity to operate an electronic home monitoring system;

22 (b) The offender does not reside in the state of Washington; or

23 (c) The court determines that there is reason to believe that the
24 offender would violate the conditions of the electronic home monitoring
25 penalty.

26 Whenever the mandatory minimum term of electronic home monitoring
27 is waived, the court shall state in writing the reason for granting the
28 waiver and the facts upon which the waiver is based, and shall impose
29 an alternative sentence with similar punitive consequences. The
30 alternative sentence may include, but is not limited to, additional
31 jail time, work crew, or work camp.

32 Whenever the combination of jail time and electronic home
33 monitoring or alternative sentence would exceed three hundred sixty-
34 five days, the offender shall serve the jail portion of the sentence
35 first, and the electronic home monitoring or alternative portion of the
36 sentence shall be reduced so that the combination does not exceed three
37 hundred sixty-five days.

38 (11) An offender serving a sentence under this section, whether or

1 not a mandatory minimum term has expired, may be granted an
2 extraordinary medical placement by the jail administrator subject to
3 the standards and limitations set forth in RCW 9.94A.728(4).

4 (12) For purposes of this section:

5 (a) A "prior offense" means any of the following:

6 (i) A conviction for a violation of RCW 46.61.502 or an equivalent
7 local ordinance;

8 (ii) A conviction for a violation of RCW 46.61.504 or an equivalent
9 local ordinance;

10 (iii) A conviction for a violation of RCW 46.61.520 committed while
11 under the influence of intoxicating liquor or any drug;

12 (iv) A conviction for a violation of RCW 46.61.522 committed while
13 under the influence of intoxicating liquor or any drug;

14 (v) A conviction for a violation of RCW 46.61.5249, 46.61.500, or
15 9A.36.050 or an equivalent local ordinance, if the conviction is the
16 result of a charge that was originally filed as a violation of RCW
17 46.61.502 or 46.61.504, or an equivalent local ordinance, or of RCW
18 46.61.520 or 46.61.522;

19 (vi) An out-of-state conviction for a violation that would have
20 been a violation of (a)(i), (ii), (iii), (iv), or (v) of this
21 subsection if committed in this state;

22 (vii) A deferred prosecution under chapter 10.05 RCW granted in a
23 prosecution for a violation of RCW 46.61.502, 46.61.504, or an
24 equivalent local ordinance; or

25 (viii) A deferred prosecution under chapter 10.05 RCW granted in a
26 prosecution for a violation of RCW 46.61.5249, or an equivalent local
27 ordinance, if the charge under which the deferred prosecution was
28 granted was originally filed as a violation of RCW 46.61.502 or
29 46.61.504, or an equivalent local ordinance, or of RCW 46.61.520 or
30 46.61.522; and

31 (b) "Within seven years" means that the arrest for a prior offense
32 occurred within seven years of the arrest for the current offense.

33 **Sec. 13.** RCW 46.63.020 and 2003 c 33 s 4 are each amended to read
34 as follows:

35 Failure to perform any act required or the performance of any act
36 prohibited by this title or an equivalent administrative regulation or
37 local law, ordinance, regulation, or resolution relating to traffic
38 including parking, standing, stopping, and pedestrian offenses, is

1 designated as a traffic infraction and may not be classified as a
2 criminal offense, except for an offense contained in the following
3 provisions of this title or a violation of an equivalent administrative
4 regulation or local law, ordinance, regulation, or resolution:

5 (1) RCW 46.09.120(2) relating to the operation of a nonhighway
6 vehicle while under the influence of intoxicating liquor or a
7 controlled substance;

8 (2) RCW 46.09.130 relating to operation of nonhighway vehicles;

9 (3) RCW 46.10.090(2) relating to the operation of a snowmobile
10 while under the influence of intoxicating liquor or narcotics or habit-
11 forming drugs or in a manner endangering the person of another;

12 (4) RCW 46.10.130 relating to the operation of snowmobiles;

13 (5) Chapter 46.12 RCW relating to certificates of ownership and
14 registration and markings indicating that a vehicle has been destroyed
15 or declared a total loss;

16 (6) RCW 46.16.010 relating to initial registration of motor
17 vehicles;

18 (7) RCW 46.16.011 relating to permitting unauthorized persons to
19 drive;

20 (8) RCW 46.16.160 relating to vehicle trip permits;

21 (9) RCW 46.16.381(2) relating to knowingly providing false
22 information in conjunction with an application for a special placard or
23 license plate for disabled persons' parking;

24 (10) RCW 46.20.005 relating to driving without a valid driver's
25 license;

26 (11) RCW 46.20.091 relating to false statements regarding a
27 driver's license or instruction permit;

28 (12) RCW 46.20.0921 relating to the unlawful possession and use of
29 a driver's license;

30 (13) RCW 46.20.342 relating to driving with a suspended or revoked
31 license or status;

32 (14) RCW 46.20.345 relating to the operation of a motor vehicle
33 with a suspended or revoked license;

34 (15) RCW 46.20.410 relating to the violation of restrictions of an
35 occupational or temporary restricted driver's license;

36 (16) RCW 46.20.740 relating to operation of a motor vehicle without
37 an ignition interlock device in violation of a license notation that
38 the device is required;

- 1 (17) RCW 46.20.750 relating to assisting another person to start a
2 vehicle equipped with an ignition interlock device;
- 3 (18) RCW 46.25.170 relating to commercial driver's licenses;
- 4 (19) Chapter 46.29 RCW relating to financial responsibility;
- 5 (20) RCW 46.30.040 relating to providing false evidence of
6 financial responsibility;
- 7 (21) RCW 46.37.435 relating to wrongful installation of
8 sunscreening material;
- 9 (22) RCW 46.37.650 relating to the sale, resale, distribution, or
10 installation of a previously deployed air bag;
- 11 (23) RCW 46.44.180 relating to operation of mobile home pilot
12 vehicles;
- 13 (24) RCW 46.48.175 relating to the transportation of dangerous
14 articles;
- 15 (25) RCW 46.52.010 relating to duty on striking an unattended car
16 or other property;
- 17 (26) RCW 46.52.020 relating to duty in case of injury to or death
18 of a person or damage to an attended vehicle;
- 19 (27) RCW 46.52.090 relating to reports by repairmen, storagemen,
20 and appraisers;
- 21 (28) RCW 46.52.130 relating to confidentiality of the driving
22 record to be furnished to an insurance company, an employer, and an
23 alcohol/drug assessment or treatment agency;
- 24 (29) RCW 46.55.020 relating to engaging in the activities of a
25 registered tow truck operator without a registration certificate;
- 26 (30) RCW 46.55.035 relating to prohibited practices by tow truck
27 operators;
- 28 (31) RCW 46.61.015 relating to obedience to police officers,
29 flaggers, or fire fighters;
- 30 (32) RCW 46.61.020 relating to refusal to give information to or
31 cooperate with an officer;
- 32 (33) RCW 46.61.022 relating to failure to stop and give
33 identification to an officer;
- 34 (34) RCW 46.61.024 relating to attempting to elude pursuing police
35 vehicles;
- 36 (35) RCW 46.61.500 relating to reckless driving;
- 37 (36) RCW 46.61.502 and 46.61.504 relating to persons under the
38 influence of intoxicating liquor or drugs;

- 1 (37) RCW 46.61.503 relating to a person under age twenty-one
2 driving a motor vehicle after consuming alcohol;
- 3 (38) RCW 46.61.520 relating to vehicular homicide by motor vehicle;
- 4 (39) RCW 46.61.522 relating to vehicular assault;
- 5 (40) RCW 46.61.5249 relating to first degree negligent driving;
- 6 (41) RCW 46.61.527(4) relating to reckless endangerment of roadway
7 workers;
- 8 (42) RCW 46.61.530 relating to racing of vehicles on highways;
- 9 (43) RCW 46.61.685 relating to leaving children in an unattended
10 vehicle with the motor running;
- 11 (44) RCW 46.61.740 relating to theft of motor vehicle fuel;
- 12 (45) RCW 46.64.010 relating to unlawful cancellation of or attempt
13 to cancel a traffic citation;
- 14 (46) RCW 46.64.048 relating to attempting, aiding, abetting,
15 coercing, and committing crimes;
- 16 (47) Chapter 46.65 RCW relating to habitual traffic offenders;
- 17 (48) RCW 46.68.010 relating to false statements made to obtain a
18 refund;
- 19 (49) Chapter 46.70 RCW relating to unfair motor vehicle business
20 practices, except where that chapter provides for the assessment of
21 monetary penalties of a civil nature;
- 22 (50) Chapter 46.72 RCW relating to the transportation of passengers
23 in for hire vehicles;
- 24 (51) RCW 46.72A.060 relating to limousine carrier insurance;
- 25 (52) RCW 46.72A.070 relating to operation of a limousine without a
26 vehicle certificate;
- 27 (53) RCW 46.72A.080 relating to false advertising by a limousine
28 carrier;
- 29 (54) Chapter 46.80 RCW relating to motor vehicle wreckers;
- 30 (55) Chapter 46.82 RCW relating to driver's training schools;
- 31 (56) RCW 46.87.260 relating to alteration or forgery of a cab card,
32 letter of authority, or other temporary authority issued under chapter
33 46.87 RCW;
- 34 (57) RCW 46.87.290 relating to operation of an unregistered or
35 unlicensed vehicle under chapter 46.87 RCW.

36 **Sec. 14.** RCW 46.68.041 and 1998 c 212 s 3 are each amended to read
37 as follows:

- 38 (1) Except as provided in subsection (2) of this section, the

1 department shall forward all funds accruing under the provisions of
2 chapter 46.20 RCW together with a proper identifying, detailed report
3 to the state treasurer who shall deposit such moneys to the credit of
4 the highway safety fund.

5 (2) Sixty-three percent of each fee collected by the department
6 under RCW 46.20.311 (1)((~~b~~)) (e)(ii), (2)(b)(ii), and (3)(b) shall be
7 deposited in the impaired driving safety account.

8 **Sec. 15.** RCW 46.68.260 and 1998 c 212 s 2 are each amended to read
9 as follows:

10 The impaired driving safety account is created in the custody of
11 the state treasurer. All receipts from fees collected under RCW
12 46.20.311 (1)((~~b~~)) (e)(ii), (2)(b)(ii), and (3)(b) shall be deposited
13 according to RCW 46.68.041. Expenditures from this account may be used
14 only to fund projects to reduce impaired driving and to provide funding
15 to local governments for costs associated with enforcing laws relating
16 to driving and boating while under the influence of intoxicating liquor
17 or any drug. The account is subject to allotment procedures under
18 chapter 43.88 RCW. Moneys in the account may be spent only after
19 appropriation."

SHB 2660 - S AMD 798

By Senators Haugen, McCaslin, Kline

ADOPTED 03/05/2004

20 On page 1, line 1 of the title, after "offenses;" strike the
21 remainder of the title and insert "amending RCW 10.05.140, 46.20.311,
22 46.20.342, 46.20.394, 46.20.400, 46.20.410, 46.20.720, 46.20.740,
23 46.61.5055, 46.63.020, 46.68.041, and 46.68.260; reenacting and
24 amending RCW 46.20.3101 and 46.20.391; and adding a new section to
25 chapter 46.20 RCW."

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